

Loan File Reunderwriting Protocol Status Report

Via ECF (S.D.N.Y. and C.D. Cal.) and Email (D. Kan.)

May 29, 2015

The Honorable Denise L. Cote
United States District Court for the Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007

The Honorable John W. Lungstrum
The Honorable James P. O'Hara
United States District Court for the District of Kansas
500 State Avenue, Suite 517
Kansas City, KS 66101

The Honorable George H. Wu
United States District Court for the Central District of California
312 North Spring Street
Los Angeles, CA 90012-4701

Re: *NCUA v. Morgan Stanley & Co.*, No. 13-6705 (S.D.N.Y.) and related actions

Dear Judges Cote, Lungstrum, Wu, and O'Hara:

Pursuant to § (g) of the Loan File Reunderwriting Protocol ("LFRP") (ECF No. 100), and the Courts' July 14, 2014 Order (ECF No. 174) and the Courts' December 12, 2014 Order (ECF No. 230),¹ the parties respectfully submit this status report "as to identification and production by Defendant Groups and third-parties of Loan Files and Guidelines for the Sampled Loans, and as to the status of above-described stipulations." In view of the Courts' March 10, 2015 Order (ECF No. 251) requiring a more detailed status report for Novastar and Nomura, this report has been modified to reflect the fact that NCUA has obtained a sufficient number of Sampled Loans for most of the RMBS certificates in these coordinated actions, and that NCUA does not always propose stipulations for all of the Sampled Loans it has collected. Rather, NCUA attempts to obtain a quantity of loan file and underwriting guideline stipulations sufficient to satisfy its statistical sampling methodology.

I. Collection of Loan Files and Guidelines

A. Defendants' Productions of Loan Files and Guidelines. Pursuant to §§ (b) and (c) of the LFRP, Defendants have identified the Loan Files and Guidelines for the Sampled Loans in their possession, custody, or control that they expected to produce to NCUA. Defendants in aggregate have sent approximately 200 notices to third-parties seeking consent to re-produce Loan Files and Guidelines produced by the third-parties in response to subpoenas in other RMBS actions. Defendants reasonably believe that they have produced all Loan Files and

¹ Unless otherwise noted, ECF references are to *NCUA v. Morgan Stanley & Co.*, No. 13-6705 (S.D.N.Y.).

Guidelines for the Sampled Loans in their possession, custody, or control that they expect to produce to NCUA.²

B. NCUA's Subpoenas for Loan Files and Guidelines. NCUA has issued over 350 subpoenas to third-parties seeking Loan Files and Guidelines for the Sampled Loans. To date, NCUA has collected loan file documents relating to approximately 25,949 of the 26,597 Sampled Loans at issue in these actions. NCUA has also collected thousands of potentially applicable underwriting guidelines. NCUA is processing, Bates stamping (if necessary), and reproducing these documents to Defendants. As of this report, NCUA has produced to Defendants all documents relating to loan files and underwriting guidelines that were produced by third-parties on or before May 22, 2015. NCUA continues to meet-and-confer with third-parties regarding outstanding loan files and underwriting guidelines.

C. Defendants' Subpoena for Loan Files and Guidelines. RBS has issued six subpoenas to three third-parties (American Home, Signature Group Holdings, and Navy Federal Credit Union) seeking loan files and underwriting guidelines. Goldman Sachs has issued one subpoena to a third-party (Greenpoint) seeking underwriting guidelines. Other Defendants have not issued subpoenas seeking loan files or underwriting guidelines.

* * *

The Appendix provides the status of the parties' efforts to collect loan files on a security-by-security basis. Because the parties are attempting to determine the most appropriate Guidelines for the Sampled Loans through the stipulation process, the parties are currently unable to quantify the status of the collection of Guidelines applicable to the Sampled Loans.

II. Stipulations Regarding Loan Files and Guidelines

Pursuant to §§ (e) and (f) of the LFRP, NCUA has proposed loan file and guideline stipulations to Barclays, Nomura, RBS, Credit Suisse, Goldman Sachs, UBS, Morgan Stanley, and Wachovia. The Appendix provides the status of these stipulations on a security-by-security basis. NCUA has not proposed stipulations for all of the collected Sampled Loans because it intends to re-underwrite only approximately 100 loans per security. The parties will cooperate in good faith regarding these stipulations and will raise any issues with the Court.

² Wachovia did not have any Loan Files for the Sampled Loans in its possession, custody, or control.

Respectfully submitted,

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Re: *NCUA v. RBS & Wachovia*, Nos. 11-2340 & 11-2649
NCUA v. Credit Suisse Securities (USA) LLC, No. 12-2648
NCUA v. UBS Securities, LLC, No. 12-2591
NCUA v. Morgan Stanley & Co., No. 13-2418

Re: *NCUA v. Goldman, Sachs & Co.*, No. 11-6521
NCUA v. RBS Securities, LLC, No. 11-5887

Appendix

Barclays (part 1)									
	BCAP 2007-AA1	BCAP 2007-AA2	BCAP 2007-AA3 (Grp. 1)	BCAP 2007-AA3 (Grp. 2)	BCAP 2007-AB1	FHLT 2006-C	SABR 2006-HE2	WFHET 2006-3	WFHET 2007-1
Number of Sampled Loans Collected as Reported by NCUA	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	199/200 (99.5%)
Number of Loan File Stipulations Reached / Stipulations Proposed by NCUA	58/100 (58%)	97/100 (97%)	99/100 (99%)	97/100 (97%)	97/100 (97%)	97/100 (97%)	97/100 (97%)	96/99 (97%)	97/98 (99%)
Number of Stipulations Reached as to Guideline and Matrix / Stipulations Proposed by NCUA	39/100 (39%)	10/100 (10%)	64/100 (64%)	1/100 (1%)	98/100 (98%)	99/100 (99%)	36/100 (36%)	98/99 (99%)	98/98 (100%)
Number of Stipulations Proposed by NCUA for Which No Response Has Been Due	0	0	0	0	0	0	0	0	0
Number of Sampled Loans for Which Defendant Counter-Proposed a Loan File Stipulation But No Stipulation Yet Reached	1	0	0	0	0	0	3	0	1
Number of Sampled Loans for Which Defendant Counter-Proposed a Guideline or Matrix Stipulation, But No Stipulation Yet Reached	15	90	36	99	0	0	64	0	0

Credit Suisse	ARMT 2006-3		ARMT 2007-1		ARMT 2007-2		CWALT 2007-OA6		HEAT 2006-6		HEMT 2006-2		HEMT 2007-2		INDA 2006-AR2		INDX 2006-AR41		INDX 2007-FLX3		INDYL 2006-L2		LBMLT 2006-1		LBMLT 2006-6		RALI 2006-QA9		RALI 2007-QQ1	
	Number of Sampled Loans Collected as Reported by NCUA	196/200 (98%)	193/200 (96.5%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	195/200 (97.5%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	188/200 (94%)	198/200 (99%)	198/200 (99%)													
	Number of Loan File Stipulations Reached / Stipulations Proposed by NCUA	136/136 (100%)	131/131 (100%)	132/135 (97.7%)	119/120 (99.2%)	120/120 (100%)	107/128 (83.5%)	128/129 (99.2%)	119/119 (100%)	120/120 (100%)	120/120 (100%)	120/120 (100%)	140/140 (100%)	128/128 (100%)	198/198 (100%)	198/198 (100%)														
	Number of Stipulations Reached as to Guideline and Matrix / Stipulations Proposed by NCUA	123/136 (90.4%)	114/131 (87%)	119/135 (88%)	119/120 (99.2%)	110/120 (91.6%)	79/128 (61.7%)	106/129 (82.1%)	12/119 (10%)	5/120 (4.2%)	60/120 (50%)	71/120 (59.2%)	140/140 (100%)	128/128 (100%)	59/198 (29.7%)	181/198 (91.4%)														
	Number of Stipulations Proposed by NCUA for Which No Response Has Been Due	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0														
	Number of Sampled Loans for Which Defendant Counter-Proposed a Loan File Stipulation But No Stipulation Yet Reached	0	0	0	0	0	8	0	0	0	0	0	0	0	0	0														
	Number of Sampled Loans for Which Defendant Counter-Proposed a Guideline or Matrix Stipulation But No Stipulation Yet Reached	4	1	2	0	1	13	2	1	5	0	0	0	0	0	0														

Goldman Sachs	CWALT 2007-OA4	FFML 2006-FE4	GPMF 2006-OH1	GS AA 2007-3	GS AA 2007-5	GSR 2006-OA1	GSR 2007-OA1 (G1)	GSR 2007-OA1 (G2)	LBMLT 2006-7	RALI 2006-QO6	RALI 2006-QO10	RALI 2007-QH2	RALI 2007-QH3	RALI 2007-QH5	RALI 2007-QH6
Number of Sampled Loans Collected as Reported by NCUA	200/200 (100%)	200/200 (100%)	200/200 (100%)	173/200 (86.5%)	168/200 (84%)	200/200 (100%)	191/200 (95.5%)	164/200 (82%)	198/200 (99%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)
Number of Loan File Stipulations Reached / Stipulations Proposed by NCUA	127/140 (90.7%)	153/200 (76.5%)	120/120 (100%)	76/126 (60.3%)	74/100 (74%)	88/139 (63.3%)	76/103 (73.7%)	81/101 (80.1%)	117/139 (84.2%)	176/200 (88%)	170/200 (85%)	162/200 (81%)	177/200 (88.5%)	194/200 (97%)	191/200 (95.5%)
Number of Stipulations Reached as to Guideline and Matrix/ Stipulations Proposed by NCUA	107/140 (76.4%)	199/200 (99.5%)	106/120 (88.3%)	90/126 (71.4%)	70/100 (70%)	112/139 (80.5%)	85/103 (82.5%)	86/101 (85.1%)	138/139 (99.3%)	188/200 (94%)	184/200 (92%)	175/200 (87.5%)	193/200 (96.5%)	200/200 (100%)	200/200 (100%)
Number of Stipulations Proposed by NCUA for Which No Response Has Been Due	0	0	0	0	0	1	3	0	0	0	0	0	0	0	0
Number of Sampled Loans for Which Defendant Counter-Proposed a Loan File Stipulation But No Stipulation Yet Reached	0	0	0	10	4	0	6	3	0	0	0	0	1	0	0
Number of Sampled Loans for Which Defendant Counter-Proposed a Guideline or Matrix Stipulation But No Stipulation Yet Reached	33	0	11	24	26	6	3	10	1	2	0	0	0	0	0

Morgan Stanley (part 2)	MSM 2006-3AR	MSM 2006-8AR	MSM 2006-9AR	MSM 2006-10SL	MSM 2006-13ARX	MSM 2006-16AX	MSM 2007-2AX	MSM 2007-4SL	MSM 2007-5AX	MSM 2007-11AR	NTIX 2007-HE2	RALI 2006-QA5	SAST 2007-2
Number of Sampled Loans Collected as Reported by NCUA	200/200 (100%)	192/200 (96%)	199/200 (99.5%)	200/200 (100%)	199/200 (99.5%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	110/200 (55%)	196/200 (98%)	200/200 (100%)
Number of Loan File Stipulations Reached / Stipulations Proposed by NCUA	131/131 (100%)	120/120 (100%)	118/120 (98.3%)	122/122 (100%)	109/114 (95.6%)	114/114 (100%)	114/120 (95%)	116/116 (100%)	120/120 (100%)	120/120 (100%)	19/106 (17.9%)	95/121 (78.5%)	120/120 (100%)
Number of Stipulations Reached as to Guideline and Matrix / Stipulations Proposed by NCUA	75/131 (57.2%)	80/120 (66.7%)	86/120 (71.7%)	14/122 (11.4%)	87/114 (76.3%)	82/114 (71.9%)	41/120 (34.1%)	92/116 (79.3%)	60/120 (50%)	97/120 (80.1%)	31/106 (29.2%)	67/121 (55.3%)	87/120 (72.5%)
Number of Stipulations Proposed by NCUA for Which No Response Has Been Due	0	0	0	0	0	0	0	0	0	0	0	0	0
Number of Sampled Loans for Which Defendant Counter-Proposed a Loan File Stipulation But No Stipulation Yet Reached	0	0	2	0	5	0	6	0	0	0	86	9	0
Number of Sampled Loans for Which Defendant Counter-Proposed a Guideline or Matrix Stipulation But No Stipulation Yet Reached	56	8	30	98	16	32	58	22	44	19	70	54	32

Nomura	NAA 2006-AR4	
	NHEI12007-1 (Group 1)	
Number of Sampled Loans Collected as Reported by NCUA	195/200 (97.5%)	200/200 (100%)
Number of Loan File Stipulations Reached / Stipulations Proposed by NCUA	85/96 (88.5%)	82/98 (83.7%)
Number of Stipulations Reached as to Guideline and Matrix / Stipulations Proposed by NCUA	41/96 (42.7%)	36/98 (36.7%)
Number of Stipulations Proposed by NCUA for Which No Response Has Been Due	0	0
Number of Sampled Loans for Which Defendant Counter-Proposed a Loan File Stipulation But No Stipulation Yet Reached	0	0
Number of Sampled Loans for Which Defendant Counter-Proposed a Guideline or Matrix Stipulation, But No Stipulation Yet Reached	41	41

Novastar	NHEL 2006-5 (All)	
	NHEL 2006-5 (GRP 2)	
Number of Sampled Loans Collected as Reported by NCUA	145/200 (72.5%)	137/200 (68.5%)
Number of Loan File Stipulations Reached / Stipulations Proposed by NCUA	0/101 (0%)	0/94 (0%)
Number of Stipulations Reached as to Guideline and Matrix / Stipulations Proposed by NCUA	0/101 (0%)	0/94 (0%)
Number of Stipulations Proposed by NCUA for Which No Response Has Been Due	101	94
Number of Sampled Loans for Which Defendant Counter-Proposed a Loan File Stipulation But No Stipulation Yet Reached	0	0
Number of Sampled Loans for Which Defendant Counter-Proposed a Guideline or Matrix Stipulation, But No Stipulation Yet Reached	0	0

RBS (part 1)	<div>AHMA 2007-3 FFML 2005-FFH4 FFML 2006-FF16 (ALL) FFML 2006-FF16 (GRP 2) FHLT 2006-3 FHLT 2006-D (ALL) FHLT 2006-D (GRP 2) GMACM 2006-HE5 HVMLT 2006-10 HVMLT 2006-11 HVMLT 2006-12 HVMLT 2006-14 HVMLT 2006-6 (GRP 2) HVMLT 2006-6 (GRP 3)</div>													
Number of Sampled Loans Collected as Reported by NCUA	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	199/200 (99.5%)	199/200 (99.5%)	197/200 (98.5%)
Number of Loan File Stipulations Reached / Stipulations Proposed by NCUA	0/195 (0%)	98/100 (98%)	100/100 (100%)	101/101 (100%)	100/100 (100%)	110/110 (100%)	118/119 (99.2%)	95/98 (96.9%)	69/100 (69%)	100/100 (100%)	93/100 (93%)	89/97 (91.8%)	94/95 (99%)	95/95 (100%)
Number of Stipulations Reached as to Guideline and Matrix / Stipulations Proposed by NCUA	185/195 (94.9%)	100/100 (100%)	98/100 (98%)	98/101 (97%)	92/100 (92%)	95/110 (86.4%)	107/119 (89.9%)	3/98 (3.1%)	15/100 (15%)	0/100 (0%)	0/100 (0%)	35/97 (36.1%)	36/95 (37.9%)	28/95 (29.5%)
Number of Stipulations Proposed by NCUA for Which No Response Has Been Due	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Number of Sampled Loans for Which Defendant Counter-Proposed a Loan File Stipulation But No Stipulation Yet Reached	0	0	0	0	0	0	0	1	31	0	7	8	1	0
Number of Sampled Loans for Which Defendant Counter-Proposed a Guideline or Matrix Stipulation, But No Stipulation Yet Reached	8	0	2	3	8	3	3	93	42	100	100	32	59	67

RBS (part 2)	HVMLT 2006-8	HVMLT 2006-9	HVMLT 2006-SB1	HVMLT 2007-1 (ALL)	HVMLT 2007-1 (GRP 2)	HVMLT 2007-2	HVMLT 2007-3	HVMLT 2007-4	HVMLT 2007-5	INDX 2006-AR35	INDX 2006-AR6	LBMLT 2006-2	LBMLT 2006-8	LUM 2006-2	LUM 2007-1 (Grp 1)
Number of Sampled Loans Collected as Reported by NCUA	197/200 (98.5%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	186/200 (93.0%)	200/200 (100%)	196/200 (98.0%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	196/200 (98.0%)	187/200 (93.5%)	173/200 (86.5%)
Number of Loan File Stipulations Reached / Stipulations Proposed by NCUA	93/100 (93%)	92/100 (92%)	97/100 (97%)	92/102 (90.2%)	81/103 (78.6%)	79/99 (80%)	88/100 (88%)	97/99 (97.9%)	0/100 (0%)	97/97 (100%)	100/100 (100%)	99/99 (100%)	96/96 (100%)	94/94 (100%)	94/95 (99%)
Number of Stipulations Reached as to Guideline and Matrix/ Stipulations Proposed by NCUA	15/100 (15%)	0/100 (0%)	100/100 (100%)	0/102 (0%)	0/103 (0%)	19/99 (19.2%)	26/100 (26%)	40/99 (40.4%)	94/100 (94%)	92/97 (94.8%)	66/100 (66%)	90/99 (90.9%)	80/96 (83.3%)	9/94 (9.6%)	91/95 (95.8%)
Number of Stipulations Proposed by NCUA for Which No Response Has Been Due	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Number of Sampled Loans for Which Defendant Counter-Proposed a Loan File Stipulation But No Stipulation Yet Reached	6	8	0	0	0	20	12	2	0	0	0	0	0	0	0
Number of Sampled Loans for Which Defendant Counter-Proposed a Guideline or Matrix Stipulation, But No Stipulation Yet Reached	46	100	0	102	103	78	33	59	5	0	34	9	16	85	2

RBS (part 3)																
	MHL 2006-1	MHL 2006-1 (Grp 1-A2)	NAA 2006-AR4	NHEL 2006-5 (All)	NHEL 2006-5 (GRP 2)	NHEL1 2007-1 (Group 1)	NHEL1 2007-1 (Group 2)	OOMLT 2007-2	RFMS2 2007-HSA2	SAST 2006-3	SVHE 2005-OPT4	SVHE 2006-WF1	SVHE 2006-WF2	SVHE 2007-OPT1	WMLT 2006-ALT1	
	Number of Sampled Loans Collected as Reported by NCUA	200/200 (100%)	200/200 (100%)	195/200 (97.5%)	145/200 (72.5%)	137/200 (68.5%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	197/200 (98.5%)	200/200 (100%)	200/200 (100%)	
	Number of Loan File Stipulations Reached / Stipulations Proposed by NCUA	195/196 (99.5%)	88/100 (88%)	85/96 (88.5%)	0/101 (0%)	0/94 (0%)	82/98 (83.7%)	115/115 (100%)	100/101 (99%)	98/100 (98%)	105/105 (100%)	101/101 (100%)	99/99 (100%)	94/100 (94%)	97/100 (97%)	100/100 (100%)
	Number of Stipulations Reached as to Guideline and Matrix / Stipulations Proposed by NCUA	194/196 (99%)	58/100 (58%)	41/96 (42.7%)	0/101 (0%)	0/94 (0%)	36/98 (36.7%)	0/115 (0%)	6/101 (5.9%)	96/100 (96%)	17/105 (16.2%)	0/101 (0%)	99/99 (100%)	75/100 (75%)	14/100 (14%)	98/100 (98%)
	Number of Stipulations Proposed by NCUA for Which No Response Has Been Due	0	0	0	101	94	0	0	0	0	0	0	0	0	0	0
	Number of Sampled Loans for Which Defendant Counter-Proposed a Loan File Stipulation But No Stipulation Yet Reached	1	2	0	0	0	0	0	0	0	0	0	0	4	1	0
Number of Sampled Loans for Which Defendant Counter-Proposed a Guideline or Matrix Stipulation, But No Stipulation Yet Reached	1	42	41	0	0	41	52	95	2	88	97	0	25	86	2	

UBS (part 2)	INDS 2007-1	INDS 2007-2	MABS 2006-HE2	MABS 2006-WMC1	MABS 2006-WMC4	MARM 2007-2	MARM 2007-HF2	MASL 2006-1	NAA 2006-AR4	RALI 2006-QQ5 (G2)	RALI 2006-QQ5 (G3)	RALI 2006-QQ7
Number of Sampled Loans Collected as Reported by NCUA	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	200/200 (100%)	192/200 (96%)	199/200 (99.5%)	195/200 (97.5%)	200/200 (100%)	200/200 (100%)	200/200 (100%)
Number of Loan File Stipulations Reached / Stipulations Proposed by NCUA	120/120 (100%)	120/120 (100%)	128/128 (100%)	140/140 (100%)	140/140 (100%)	119/119 (100%)	117/117 (100%)	106/118 (89.8%)	96/96 (100%)	199/200 (99.5%)	200/200 (100%)	200/200 (100%)
Number of Stipulations Reached as to Guideline and Matrix / Stipulations Proposed by NCUA	57/120 (47.5%)	44/120 (36.7%)	78/128 (60.9%)	138/140 (98.6%)	140/140 (100%)	119/119 (100%)	4/117 (3.4%)	60/118 (50.8%)	0/96 (0%)	191/200 (95.5%)	194/200 (97%)	177/200 (88.5%)
Number of Stipulations Proposed by NCUA for Which No Response Has Been Due	0	0	0	0	0	0	0	0	0	0	0	0
Number of Sampled Loans for Which Defendant Counter-Proposed a Loan File Stipulation But No Stipulation Yet Reached	0	0	0	0	0	0	0	11	0	0	0	0
Number of Sampled Loans for Which Defendant Counter-Proposed a Guideline or Matrix Stipulation But No Stipulation Yet Reached	0	10	3	0	0	0	0	0	72	1	0	1

Wachovia				
	NHEL 2006-5 (All)		NHEL 2006-5 (GRP 2)	
			WMLT 2006-ALT1	
			WMLT 2006-AMN1	
Number of Sampled Loans Collected as Reported by NCUA	145/200 (72.5%)	137/200 (68.5%)	200/200 (100%)	195/200 (97.5%)
Number of Loan File Stipulations Reached / Stipulations Proposed by NCUA	0/101 (0%)	0/94 (0%)	100/100 (100%)	97/97 (100%)
Number of Stipulations Reached as to Guideline and Matrix / Stipulations Proposed by NCUA	0/101 (0%)	0/94 (0%)	98/100 (98%)	0/97 (0%)
Number of Stipulations Proposed by NCUA for Which No Response Has Been Due	101	94	0	0
Number of Sampled Loans for Which Defendant Counter-Proposed a Loan File Stipulation But No Stipulation Yet Reached	0	0	0	0
Number of Sampled Loans for Which Defendant Counter-Proposed a Guideline or Matrix Stipulation, But No Stipulation Yet Reached	0	0	2	97